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THE SURFACE TRANSPORTATION BOARD
HEARING - TUESDAY, MARCH 7, 2000

TESTIMONY

Hon. JOHN J. LaFALCE
Member of Congress - 29th District of New York

EX PARTE NO. 582
Canadian National Railway proposed merger with the Burlington Northern Santa Fe Railway

I represent the 29th District of New York State, which includes some or all of Niagara, Erie, Orleans, and Monroe Counties. Within this district are three international border crossings with Canada that in 1998 collectively supported $64 billion in total trade, making it the second largest land port in the country (U.S. Bureau of Transportation Statistics).

On June 3, 1998, I testified before the STB about the impact the Conrail transaction would have on Western New York. At the time I stated that the Niagara Frontier is one of the largest rail markets, a region that generated $500 million in annual freight revenue in 1995. More importantly, I declared that the lack of rail competition has stifled industrial manufacturing in this area, and I believe across the country.

I support a timely and fair review of the Canadian National Railway (CN) proposed merger with the Burlington Northern Santa Fe Railway (BNSF), which will be before the Board in the coming months. It is extremely important that this merger be reviewed from the perspective of what effects it will have on the increasingly interdependent economy of North America - - effects that will be lasting and profound.

The recent Conrail transaction has been very disruptive to the manufacturers in my community. These rail-dependent businesses include Dunlop, DuPont, Olin, OxyChem, Ford, General Motors, Delphi, 3M, General Mills, and American Axle, to name a few. In fact, since June, these companies have significantly reduced capacity, relocated production, and switched significant, if not all shipments to trucks.

WNY's ECONOMY

The economy of Western New York continues to struggle. This area has seen its manufacturing base erode steadily since the 1960's, losing over 50,000 manufacturing jobs since 1980 alone. Nevertheless, manufacturing today still accounts for 18% of local employment.

The most promising growth sectors of the local economy are international trade and truck distribution and warehousing, due primarily to the geographic proximity to Canada and its largest city, Toronto. Rail competition is critical to the long-term expansion of trade and truck distribution. This area could potentially benefit from the CN/BNSF merger through expanding trade and distributing growth.

A study by the State Assembly's - Western New York Majority Delegation, entitled "The Regional Economic Profile - Western New York," dated February, 2000 [which can be found at **http://www.assembly.state.ny.us/Reports/westernny.pdf**] sites the following:

- The value of exports from the Buffalo / Niagara Falls Metropolitan area doubled between 1993 and 1998, from $1.1 billion to $2.2 billion

- The Export Sector of the economy now accounts for 12% of all wages in the region.
- Exports to Canada more than tripled from $0.6 billion to $1.9 billion in 1997, and Canada is now the destination for 66% of Western New York's exports.
- The five-year growth of exports for Buffalo-Niagara Falls is an astounding 96% - leading Detroit (61%), Cleveland (49%), and Pittsburgh (36%) over the same period.
- There is a significant growth in the amount of goods produced by small and mid-sized Canadian firms that are now consolidated at distribution centers in WNY for U.S. distribution.

REVIEW OF THE CONRAIL TRANSACTION

A - SERVICE

Regionally, the National Industrial Transportation League survey, presented in January, at the Conrail Transaction Council in Philadelphia, concluded the following:

- CSX service is worse for 88% of respondents now compared to service prior to the Conrail transaction on June 1, 1999;
- Norfolk Southern service is worse for 90% of respondents now compared to service prior to the Conrail transaction on June 1, 1999;
- 100% of respondents reported that at some point, this transaction has forced a switch to more expensive truck shipping; and
- Western New York and the CP Draw congestion were mentioned specifically among the worst areas impacted by the transaction.

B - INFRASTRUCTURE

Conrail neglected rail infrastructure in New York; as a result, we are now paying the price.

Since the merger, there has been a rerouting of traffic; that has resulted in a 30% increase in traffic over the Buffalo River at the CP Draw bridge -- to 100 trains per day. As part of the Conrail acquisition, Norfolk Southern committed to spending $6.2 million to bypass CP Draw because it was universally recognized as a choke-point. However, those plans have yet to be implemented A fixed second crossing of the Buffalo River at the CP Draw site must be completed immediately.

Norfolk Southern should be commended for its $13 million investment at the Bison Yard, as CSX should also be commended for new improvements that have begun to alleviate local problems. However, the Bison Yard is fed by the track across the Buffalo River. Therefore, without a solution to the CP Draw site, the Bison Yard and other enhancements will be wasted.

Finally, I initiated a survey of Erie and Niagara County rail infrastructure needs, including road crossings and damaged bridges that require attention. This report was presented to executives at CSX, Norfolk Southern, and directly to STB Chairman Linda Morgan during a series of hearings in the Buffalo area. Unfortunately, this proposal has been given short shift by local CSX representatives and has received no other response to date by either company's national representatives.

THE CN/BNSF MERGER

The CN/BNSF merger has the potential to enable Western New York to become a portal for distribution throughout North America. The merger could also provide desperately needed rail competition in the upstate New York region.

The development of an extensive intermodal facility by CN/BNSF could enable Western New York to become the eastern hub for the merged railroad within its new infrastructure. CN/BNSF's initial plan is to invest $5 million in an intermodal facility in South Buffalo. This is very significant. Essentially, rail cars will terminate at the site, where truck-to-rail and rail-to-truck transfers will be readily available. Therefore, a shipper who can truck goods to the new intermodal facility will have access to rail competition using CN/BNSF. Furthermore, some current captive shippers will be able to use CN/BNSF if they choose, or will eliminate the need to switch cars between rail companies and thus reduce or eliminate stifling switching charges.

A recent full page ad that appeared in the *Washington Post*, paid for by Norfolk Southern, CSX, Union Pacific, and Canadian Pacific, opposed the merger. These self-interested railroads now seem more concerned about blocking the merger, than some do about addressing the problems in Buffalo and nationwide.

CONCLUDING COMMENTS

Again, it is imperative that the merits of the CN/BNSF merger be judged using criteria that consider its economic ramifications, and most importantly, through a process that is timely and fair.

This merger should be judged on its own merits and not on the shortcomings of previous mergers. There are three principal factors the STB should consider:

First, the promotion of competition, by any means, will stimulate the nation's economy and position manufacturing sectors to compete in the global marketplace.

Second, rail infrastructure deficiencies need to be a top priority of any review. Railroads should make substantial and enforceable commitments to repair and develop the rail network that every American manufacturer relies upon.

Finally, it is extremely important that this merger be reviewed from the perspective of what effect it will have on the increasingly interdependent economy of North America , because its impact will be lasting and profound.